

Jennifer A. Mitchell
State Bar No. 24042931
Lonergan Law Firm, PLLC
12801 North Central Expressway
Suite 150
Dallas, Texas 75243
(214) 503-7509 Telephone
(214) 503-8752 Facsimile
Email: jmitchell@lonerganlaw.com
ATTORNEYS FOR SONABANK

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:	§	CASE NO. 10-45775-rfn11
	§	
FRED MARSHALL TRAINOR	§	
Debtor	§	CHAPTER 11
	§	
SONABANK, f/k/a SONABANK, N.A.	§	
Movant	§	
	§	
v.	§	
	§	
FRED MARSHALL TRAINOR	§	JUDGE RUSSELL F. NELMS

**MOTION OF SONABANK, f/k/a SONABANK, N.A. TO SET ASIDE
ORDER DENYING ITS MOTION FOR RELIEF FROM STAY**

NOTICE – RESPONSE REQUIRED

PURSUANT TO LOCAL BANKRUPTCY RULE 4001(b), A RESPONSE IS REQUIRED. THE TRUSTEE, IF ONE HAS BEEN APPOINTED, OR THE DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITHIN FOURTEEN (14) DAYS FROM THE SERVICE OF THE MOTION (DECEMBER 24, 2010).

File a written response with the court at:

**CLERK, U.S. BANKRUPTCY COURT
EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET,
Room 1254,
DALLAS, TX 75242**

UNDER BANKRUPTCY RULE 9006(e) SERVICE BY MAIL IS

COMPLETE UPON MAILING; UNDER BANKRUPTCY RULE 9006(f), THREE (3) DAYS ARE ADDED TO THE PERIOD FOR FILING A RESPONSE WHEN NOTICE OF THE PERIOD IS SERVED BY MAIL.

HEARING PARTICIPANTS ARE NOTIFIED THAT ABSENT COMPELLING CIRCUMSTANCES, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS IN THE DALLAS DIVISION ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY WILL BE BY AFFIDAVIT ONLY. THE PARTY REQUESTING THE HEARING MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 7 DAYS IN ADVANCE OF SUCH HEARING; THE RESPONDING PARTY MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING.

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

COMES NOW SONABANK, f/k/a SONABANK, N.A., (“Sonabank” or “Movant”), a secured creditor herein, by and through their undersigned counsel, and moves this Court to set aside its Order Denying Movant’s Motion for Relief from the Automatic Stay for Want of Prosecution and sign an Order granting Movant’s Motion for Relief from the Automatic Stay, and in support thereof would respectfully state as follows:

1. On or about September 3, 2010 (the “Petition Date”), Fred Marshall Trainor (“Debtor”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (“Petition”), with the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the “Court”).

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. § 1334. This is a core proceeding as defined by 29 U.S.C. §157(b)(2)(G). The statutory basis for the relief sought is 11 U.S.C. § 362.

3. On October 13, 2010, Movant filed a Motion for Relief from the Automatic Stay (“Motion”).

4. On October 19, 2010, Debtor filed a Response to the Motion stating that he was

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unopposed to the Motion.

5. A hearing on the Motion was scheduled for November 10, 2010 at 9:30a.m., but Movant's attorney did not attend the hearing.

6. On November 30, 2010, Movant uploaded a proposed order granting its motion.

7. On December 3, 2010, the Court signed an Order Denying Motion for Want of Prosecution.

8. Through this motion, Movant requests this Court set aside the Order Denying Motion for Want of Prosecution. The failure of Movant's attorney to attend the hearing scheduled on November 10, 2010, was not intentional or the result of conscious indifference but was due to an accident or mistake. The attorney personally entered the date on her Outlook calendar, but the calendar entry disappeared prior to the hearing date.

9. There is good cause to set aside the Order Denying Motion for Want of Prosecution because Movant seeks to recover its security interest in property, and Debtor is unopposed to this recovery. The reinstatement of the Motion will result in no injury to Debtor.

WHEREFORE, PREMISES CONSIDERED, Sonabank requests that the Court enter an Order Setting Aside the Order Denying Motion for Want of Prosecution, and further enter an Order lifting the automatic stay to allow Sonabank, its successors, and/or assigns to take all steps necessary to proceed with foreclosure on the Real Property, including commencement of any judicial proceedings which may be deemed necessary to that end; to take all action necessary to secure Sonabank's possession of the property; to obtain possession of the Real Property to the exclusion of the Debtor; and to pursue any and all of its rights under the various loan documents and applicable state law, and grant such other and further relief in favor of Sonabank as the Court deems just and appropriate.

Respectfully submitted,

THE LONERGAN LAW FIRM
Attorneys at Law

BY: /s/
JENNIFER A. MITCHELL
State Bar No. 24042931
12801 North Central Expressway, Suite 150
Dallas, Texas 75243
Tel: (214) 503-7509
Fax: (214) 503-8752
Email: jmitchell@lonerganlaw.com
ATTORNEY FOR SONABANK, INC

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the above and foregoing Motion to Set Aside was forwarded to all parties of interest as listed below via First Class, U.S. Mail, postage prepaid, or by electronic mail from the Clerk of the Court on this the 9th day of December, 2010.

_____/s/_____
Jennifer A. Mitchell

Debtor:

Fred Marshall Trainor
50 Valley Ridge
Fort Worth, TX 76107

Attorneys for Debtor:

Behrooz P. Vida, Esq.
Carla Reed Vida, Esq.
The Vida Law Firm, PLLC
3000 Central Drive
Bedford, TX 76021

US Trustee:

U.S. Trustee
1100 Commerce Street
Room 976
Dallas, TX 75242-1496

Twenty Largest Unsecured Creditors (excluding Movant and duplicates):

Regions Bank
100 Main Street
Fort Worth, TX 76102

Frost Bank
c/o Adams, Lynch & Loftin
3950 Highway 360
Grapevine, TX 76051

Michael Perkins
c/o Cary & Lippincott PLLC
700 Lavaca Street, Suite 1030
Austin, TX 78701

Regions Bank
100 Main Street
Fort Worth, TX 76102

Chase Visa
PO Box 15123
Montandon, PA 17850-5123

Capital One
PO Box 60599
Glendale, CA 91221-0599

Shell Card
PO Box 183018
Columbus, OH 43218-3018

M.M. Russell
2087 Milton Farm
Charlottesville, VA 22902

Granite Finance LLC
c/o Bracewell & Giuliani
1445 Ross Avenue, Suite 3800
Dallas, TX 75202

Chevron Texaco
485 Lake Mirror Road
Atlanta, GA 30349

Requested Notice:

Sarah F. Berry
Cary & Lippincott, PLLC
700 Lavaca Street, Suite 1030
Austin, TX 78701

Laurie Spindler Huffman
Linebarger Goggan Blair & Sampson, LLP
2323 Bryan St., Suite 1600
Dallas, TX 75201

Stacy B. Loftin
Adams, Lynch and Loftin, P.C.
1903 Central Drive, Ste. 400
Bedford, TX 76021

Brandon Scot Pierce
Brackett & Ellis, PC
100 Main St.
Fort Worth, TX 76102

Steve P. Turner
Barrett Daffin Frappier Turner & Engel
610 West 5th Street, Suite 602
Austin, TX 78701

Robert P. Franke
Strasburger & Price, L.L.P.
901 Main Street, Suite 4400
Dallas, TX 75202-3794

Matthew H. Marchant
Strasburger & Price, L.L.P.
2801 Network Boulevard, Suite 600
Frisco, TX 75034-1872

GE Money Bank
c/o Recovery Management Systems Corp.
Attn Ramesh Singh
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605